

3/21/2022 10:15 AM
By: SW

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS**

Susan W. McGee
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

CHRISTOPHER HANSEN,)	
)	
Plaintiff,)	
)	2022CH000011
v.)	
)	
CITY OF CHAMPAIGN,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, CHRISTOPHER HANSEN, by the undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant CITY OF CHAMPAIGN’s willful violation of the Illinois Freedom of Information Act. Relying on an irrelevant claim that the Champaign County Community Coalition is not considered a public body under FOIA and OMA, CITY OF CHAMPAIGN has refused to produce its employees’ own records regarding the Champaign County Community Coalition. In support of the Complaint, HANSEN states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act (“FOIA”). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information

relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. Under FOIA Section 1.2, “[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt.” 5 ILCS 140/1.2.

PARTIES

4. Plaintiff CHRISTOPHER HANSEN made the FOIA request at issue in this case. HANSEN is the founder of Check CU, which is a non-profit news-media website. *See* <https://checkcu.org/about>.

5. Defendant CITY OF CHAMPAIGN (“CHAMPAIGN”) is a public body located in Champaign County, IL.

JANUARY 25, 2022 FOIA REQUEST

6. On January 25, 2022, HANSEN submitted a FOIA request to CHAMPAIGN for “[a]ny and all records related to Champaign County Coalition Meetings held on February 3rd, 2021, and February 10th 2021.” HANSEN specified that the records should include “related emails, agendas, minutes, and recordings.” Ex. 1.

7. Champaign County Community Coalition (“Community Coalition”) was formed in late 2009 as a community response to a fatal officer-involved shooting of a 15-year-old boy. The Community Coalition is open to any member of the community and is currently comprised of various community organizations (ranging from behavioral health organizations to grassroots groups), law enforcement agencies, and individual community members.

8. Many employees and staff of CHAMPAIGN are members of the Executive Committee of the Community Coalition. *See* <https://www.champaigncommunitycoalition.org/executive-committee/>.

9. On January 26, 2022, CHAMPAIGN acknowledged receipt of the request. *Id.*

10. On February 1, 2022, CHAMPAIGN denied the request in its entirety by citing the Public Access Counselor's January 22, 2021 non-binding opinion, which stated that "the Champaign County Community Coalition was not a public body and, therefore, not subject to the requirements of the Open Meetings Act." Ex. 2.

11. CHAMPAIGN alleged that the definition of "public body" under Section 2 of the FOIA is "almost exactly the same definition" as "public body" under Section 1.02 of the Open Meetings Act; therefore, according to CHAMPAIGN, the FOIA "is not applicable to the Champaign County Community Coalition" and that "public records" do not exist. *Id.*

12. HANSEN did not submit the request to the Champaign County Community Coalition.

13. HANSEN submitted his FOIA Request to CHAMPAIGN and requested CHAMPAIGN's records regarding the Community Coalition.

14. Section 2(c) of FOIA defines "public records" as "all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body." 5 ILCS 140/2(c).

15. Facilitating the Community Coalition meetings and other tasks that are required for such facilitation pertain to public business.

16. The records sought in HANSEN's January 25, 2022 request are public records as they pertain to the public business of CHAMPAIGN.

17. As of the date of this filing, CHAMPAIGN has failed to comply with FOIA and has produced no records responsive to the request.

**COUNT I – JANUARY 25, 2022 FOIA REQUEST,
FAILURE TO PRODUCE RECORDS**

18. The above paragraphs are incorporated by reference.

19. CITY OF CHAMPAIGN is a public body under FOIA.

20. The records sought in the FOIA request are non-exempt public records.

21. CITY OF CHAMPAIGN violated FOIA by failing to provide records responsive to the request.

**COUNT II – JANUARY 25, 2022 FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

22. The above paragraphs are incorporated by reference.

23. CITY OF CHAMPAIGN is a public body under FOIA.

24. CITY OF CHAMPAIGN bears the burden of proving beyond material doubt that it performed an adequate search for records responsive to the request.

25. CITY OF CHAMPAIGN has failed to come forward with sufficient evidence to carry this burden.

26. CITY OF CHAMPAIGN has violated FOIA by failing to adequately search for records responsive to the request.

**COUNT III – JANUARY 25, 2022 FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

27. The above paragraphs are incorporated by reference.

28. CITY OF CHAMPAIGN is a public body under FOIA.

29. The records sought in the FOIA request are non-exempt public records.

30. During the time period from January 25, 2022, to present, CITY OF CHAMPAIGN was aware that HANSEN's FOIA Request was directed at CITY OF CHAMPAIGN.

31. During the time period from January 25, 2022, to present, CITY OF CHAMPAIGN was aware that whether the Community Coalition is a public body under the FOIA and OMA has no bearing on the fact that the CITY OF CHAMPAIGN's records regarding the Community Coalition are public records under Section 2(c) of FOIA.

32. During the time period from January 25, 2022, to present, CITY OF CHAMPAIGN was aware that CITY OF CHAMPAIGN's records regarding the Community Coalition are public records as pertain to the public business under Section 2(c) of FOIA.

33. Because CITY OF CHAMPAIGN had no good faith basis to deny the request by stating that the Community Coalition is not a public body under the FOIA, CITY OF CHAMPAIGN has willfully and intentionally or otherwise in bad faith violated FOIA.

WHEREFORE, HANSEN asks that the Court:

- i. declare that CITY OF CHAMPAIGN has violated FOIA;
- ii. order CITY OF CHAMPAIGN to conduct an adequate search for the requested records;
- iii. order CITY OF CHAMPAIGN to produce the requested records;
- iv. enjoin CITY OF CHAMPAIGN from withholding non-exempt public records under FOIA;
- v. order CITY OF CHAMPAIGN to pay civil penalties;

- vi. award HANSEN reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

Dated: March 21, 2022

RESPECTFULLY SUBMITTED,
/s/ Shelley Geiszler

Attorneys for Plaintiff
CHRISTOPHER HANSEN

Matthew Topic, ARDC # 6290922
Josh Loevy, ARDC # 6327897
Merrick Wayne, ARDC # 6330610
Shelley Geiszler, ARDC # 6335917
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com

Subject: #2022 015 Request Acknowledgment Records Regarding Community Coalition Meetings from 02/03/21 and 02/10/21

From: FOIOWCity <FOIOWCity@champaignil.gov>

To: Check CU [REDACTED]

Cc: FOIOWCity <FOIOWCity@champaignil.gov>

Date Sent: Wednesday, January 26, 2022 1:11:54 PM GMT 06:00

Date Received: Wednesday, January 26, 2022 1:11:57 PM GMT 06:00

Exhibit 1

To Whom It May Concern:

The City of Champaign is in receipt of your request for "Any and all records related to Champaign Community Coalition Meetings held on February 3rd, 2021, and February 10th, 2021. Records should include related emails, agendas, minutes, and recordings."

Your request will be directed to the appropriate departments/divisions for processing, and a response to your request will be provided by Wednesday, February 02, 2022.

Sincerely,

Shannon Myers
Acting Records Manager/City Clerk
FOIA City Officer

From: Check CU [REDACTED]

Sent: Tuesday, January 25, 2022 9:39 PM

To: FOIOWCity <FOIOWCity@champaignil.gov>

Subject: City of Champaign FOIA Request - Feb 2021 CCCC Meeting

[EXTERNAL]

Please provide:

Any and all records related to Champaign Community Coalition Meetings held on February 3rd, 2021, and February 10th, 2021.

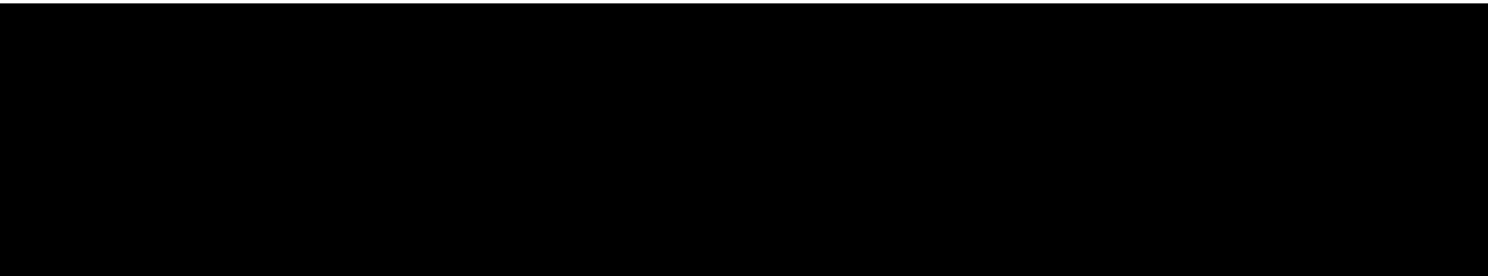
Records should include related emails, agendas, minutes, and recordings.

This request is being made by news media (see below), and cannot be treated as voluminous or as a request from a recurrent requester.

This is not a commercial request. Please provide the records in digital format via email.

I am requesting a fee waiver for any fees that may be assessed.

Thank you,
Christopher Hansen
CheckCU.org





Subject: FOIA #2022 015 Champaign County Community Coalition Meetings
From: Sally Graning <sally.graning@champaignil.gov>
To: Check CU [REDACTED]
Cc: FOIOWorker <FOIOWorker@champaignil.gov>, Nancy Rabel <nancy.rabel@champaignil.gov>
Date Sent: Tuesday, February 1, 2022 2:51:57 PM GMT 06:00
Date Received: Tuesday, February 1, 2022 2:52:01 PM GMT 06:00
Attachments: Letter Hansen, Chris (Response) 2 1 22.pdf

Mr. Hansen,
Attached is the City's response to your recent FOIA request referenced above. If you have any questions regarding the same, do not hesitate to contact Assistant City Attorney, Nancy Rabel.
Sally

Sally J. Graning
City of Champaign
Legal Assistant | Legal Department
102 N. Neil Street, Champaign, IL 61820
Phone: 217 403 8765 | Fax: 217 403 8755
Email: sally.graning@champaignil.gov
City website: www.champaignil.gov



Legal Department • 102 N Neil St • Champaign IL 61820 • (217) 403-8765 • fax (217) 403-8755 legaldepartment@champaignil.gov

Frederick C. Stavins, City Attorney
Jennifer Gover Bannon, Assistant City Attorney
Kathryn Cataldo, Assistant City Attorney
Thomas Yu, Assistant City Attorney
Nancy L. Rabel, Assistant City Attorney

February 1, 2022

Mr. Christopher Hansen
CheckCU.org
[REDACTED]

RE: FOIA Request #22-015 – Community Coalition Meetings

Dear Mr. Hansen:

On January 25, 2022, you submitted a request under the Freedom of Information Act (5 ILCS 140/1, et al) requesting the following:

Any and all records related to Champaign Community Coalition Meetings held on February 3rd, 2021, and February 10th, 2021. Records should include related emails, agendas, minutes, and recordings.

As you are aware, the Public Access Bureau determined on January 22, 2021 that the Champaign County Community Coalition was not a public body and, therefore, not subject to the requirements of the Open Meetings Act (5 ILCS 120/1, et al). I have attached a copy of the Public Access Bureau's finding for your review.

Since the definition of “public body” under Section 2 of the Freedom of Information Act (5 ILCS 140/2) is almost exactly the same definition as “public body” under Section 1.02 of the Open Meetings Act, it is the City’s position that the Freedom of Information Act is not applicable to the Champaign County Community Coalition and that “public records” do not exist. (5 ILCS 140/2(c)).

You have a right to request review of this response by the Illinois Public Counselor:

Public Access Bureau
Office of the Attorney General

500 S. 2nd Street
Springfield, Illinois, 62706
(217) 558-0486
publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a)

You may also file suit for injunctive or declaratory relief in the Circuit Court of Champaign County, Illinois. 5 ILCS 140/11

Sincerely,

Nancy L. Rabel

Nancy L. Rabel
Assistant City Attorney

NLR/sjg
Enclosure

J:\LEG\WORD\FOIA\Requests Specific\2022\#22-015 - Hansen, Chris (Checkcufoio org) (Comm Coalition Mtgs)\Letter - Hansen, Chris (Response) 2-1-22 docx